

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
February 16, 2012

In the Matter of T. VILLANUEVA, Minor.

No. 306584
Hillsdale Circuit Court
Family Division
LC No. 11-000389-NA

Before: SAWYER, P.J., and O'CONNELL and RONAYNE KRAUSE, JJ.

MEMORANDUM.

Respondent appeals as of right from a circuit court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(ii) and (b)(iii).¹ We affirm.

The trial court did not clearly err in finding that § 19b(3)(b)(ii) was established by clear and convincing legally admissible evidence. *In re Utrera*, 281 Mich App 1, 16-17; 761 NW2d 253 (2008); MCR 3.977(E)(3) and (K). Respondent lived with a boyfriend who physically abused her and her children. Respondent was aware that the children were being physically abused, but failed to seek help to protect them. Respondent called the Department of Human Services on a day that her boyfriend was abusing her daughter, but respondent said nothing about the abuse and instead reported only a problem with her Bridge card. The daughter died later that evening from the injuries inflicted by the boyfriend.

A psychological evaluation of respondent showed that it was in respondent's nature to "negate the negative aspects of the abuse/neglect in order to preserve the relationship [with the boyfriend]." The evaluation also showed that respondent was at risk both of losing her behavioral control in a parenting situation and of using increasingly coercive disciplinary practices. This evidence supports the trial court's determination that termination was warranted under § 19b(3)(b)(ii). Because only one statutory ground for termination need be proven, *In re CR*, 250 Mich App 185, 207; 646 NW2d 506 (2002), any error in relying on §§ 19b(3)(b)(iii) as an additional ground for termination was harmless. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

¹ Petitioner did not request termination of the parental rights of the child's biological father. It appears from the record that the child has been placed with his biological father.

Further, considering respondent's poor prognosis for change in the immediate future, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5).

Affirmed.²

/s/ David H. Sawyer
/s/ Peter D. O'Connell
/s/ Amy Ronayne Krause

² We note, as did the trial court, that respondent filed an affidavit of the child's Indian heritage. The affidavit indicates that the Indian heritage derives from the biological father. The affidavit also suggests that a grandparent has Indian heritage. The record contains no indication that petitioner or the court gave notice to any tribe. Apparently, notice was unnecessary because the heritage derives from the biological father who has custody of the child.